



1636

Docket No. 75723-ZA/JPW/GJG/CS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: David Baltimore et al.

Serial No.: 10/037,341 Examiner: C. Hibbert

Filed : January 4, 2002 Group Art Unit: 1636

For : NUCLEAR FACTORS ASSOCIATED WITH TRANSCRIPTIONAL
REGULATION30 Rockefeller Plaza
20th Floor
New York, New York 10112
September 22, 2009Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

In accordance with their duty of disclosure under 37 C.F.R. §1.56, Applicants direct the Examiner's attention to the following disclosures, which are also listed on the attached substitute Form PTO-1449 (**Exhibit A**).

Applicants note that item 1 listed herein is part of a concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly & Co.* Item 2 listed herein is part of a concurrent litigation captioned *Amgen, Inc., et al. v. ARIAD Pharmaceuticals, Inc., et al.* Both litigation proceedings involve U.S. Patent No. 6,410,516, which issued from a parent of the subject application.

Applicants further note that items 1-2 were previously submitted to the U.S. Patent and Trademark Office on September 22, 2009 in connection the copending merged reexamination

Applicants : David Baltimore et al.

Serial No. : 10/037,341

Filed : January 4, 2002

Page 2 of 3 of Supplemental Information Disclosure Statement

proceeding of U.S. Patent No. 6,410,516, for which the subject application relies on for an earlier effective priority date under 35 U.S.C. §120. In accordance with 37 C.F.R. §1.98(d), copies of items 1-2 are not enclosed herewith but are readily available to the Examiner from the file history of U.S. Patent No. 6,410,516 and its merged proceeding of *Ex Parte Reexamination Control Nos. 90/007,503 and 90/007,828*.

The Examiner is respectfully requested to make the items of record in the subject application by initialing and dating the attached substitute Form PTO-1449, and returning a copy of the initialed and dated form to Applicants' undersigned attorneys.

1. Order issued August 21, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248; and

2. Decision issued June 1, 2009 in the concurrent litigation captioned *Amgen, Inc., et al. v. ARIAD Pharmaceuticals, Inc., et al.*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2009-1023.

The August 21, 2009 Order granted ARIAD's petition for a rehearing *en banc*. In addition, the April 3, 2009 decision in *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company* has been vacated.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

Applicants : David Baltimore et al.
Serial No. : 10/037,341
Filed : January 4, 2002
Page 3 of 3 of Supplemental Information Disclosure Statement

No fee is deemed necessary in connection with filing this Supplemental Information Disclosure Statement. However, if any other fee is required, authorization is hereby given to charge the additional amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

Gary J. Gershik

John P. White
Registration No. 28,678
Gary J. Gershik
Registration No. 39,992
Attorneys for Applicants
Cooper & Dunham LLP
30 Rockefeller Plaza
20th Floor
New York, New York 10112
(212) 278-0400

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Gary J. Gershik 1/22/02
John P. White Date
Reg. No. 28,678
Gary J. Gershik
Reg. No. 39,992

EXHIBIT A

of Supplemental Information Disclosure Statement

Applicants: David Baltimore, et al.
Serial No.: 10/037,341
Filed: January 4, 2002
Group Art Unit: 1636
Examiner: C. Hibbert